IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 67170-M of 2006

DATE OF DECISION : 19.12.2006

Kanwar Bhan

.... PETITIONER

Versus

Daljeet Bhinder and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Malkeet Singh, Advocate,
for the petitioner.

* * *

Petitioner-complainant Kanwar Bhan has filed this petition under Section 439 (2) of the Code of Criminal Procedure for cancellation of bail granted to respondents No.1 to 19 by the court of Judicial Magistrate Ist Class, Kurukshetra, vide order dated 17.7.2006, passed in complaint No. 249 of 2005 under Sections 323, 364, 307, 367, 392, 148, 149, 506 IPC, titled as Kanwar Bhan versus Daljeet Bhinder and others.

2. I have heard counsel for the petitioner.

3. The petitioner-complainant is seeking cancellation of bail of respondents No.1 to 19 on two grounds, firstly that the court of Judicial Magistrate Ist Class, Kurukshetra, was having no power to grant bail to the accused for the offence under Section 364 IPC, which is triable by the court of Sessions, and secondly that before granting anticipatory bail to the accused, the complainant was not heard.

4. After hearing counsel for the petitioner, I do not find any substance in any of the aforesaid contentions. In this case, vide order dated 10.7.2006, on an application filed by respondents-accused for the grant of anticipatory bail, Sessions Judge, Kurukshetra ordered that in the event of

arrest, all the accused would be released on bail on their furnishing personal bonds in the sum of Rs. 20,000/- with one similar surety each to the satisfaction of the arresting officer. This order was ordered to remain valid for a period of one month, during which the accused were to seek regular bail by surrendering before the trial court. Both the parties were then directed to appear before the trial court on 17.7.2006. In compliance of the said order, the accused-respondents appeared before the court of Judicial Magistrate Ist Class and applied for regular bail. On their application, the Judicial Magistrate released them on bail on their furnishing bail bonds in the sum of Rs. 20,000/- with one surety of the like amount each. Once the accused surrendered before the court of Judicial Magistrate in terms of the order passed by Sessions Judge, then they will be deemed to be in custody of the court and the Judicial Magistrate rightly granted them bail in compliance of the order passed by Sessions Judge. As far as second contention is concerned, both the parties appeared the court of Judicial Magistrate on 17.7.2006 and after hearing them, the aforesaid bail order was passed. I have also gone through the order dated 16.9.2006, passed by Judicial Magistrate Ist Class, Kurukshetra, whereby the application filed by the petitioner for cancellation of bail on the aforesaid grounds has been dismissed.

5. In view of the above, I am of the opinion that the court of Judicial Magistrate, while granting regular bail to the respondents-accused, has committed no illegality or irregularity.

6. Dismissed.

December 19, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**